

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOHN P. BARNES,

Plaintiff,

v.

9:05-CV-0153
(LEK)(RFT)

ROBERT C. GLENNON; KAREN A. THORNTON;
LORI MONTROY; CAROLYN ST. DENIS; GLENN
S. GOORD; THOMAS EAGEN,

Defendants.

APPEARANCES:

OF COUNSEL:

JOHN P. BARNES
98-A-2301
Plaintiff, *pro se*
Franklin Correctional Facility
62 Bare Hill Road
P.O. Box 10
Malone, New York 12953

HON. ELIOT SPITZER
Attorney General of the State of New York
Counsel for the Defendants
The Capitol
Albany, New York 12224

DOUGLAS J. GOGLIA, ESQ.
Assistant Attorney General

RANDOLPH F. TREECE, U.S. MAGISTRATE JUDGE

ORDER

Presently before the Court is *pro se* Plaintiff John P. Barnes' Motion for Reconsideration. Dkt. No. 29.¹ By his Motion, Plaintiff seeks reconsideration of this Court's Order, filed December 30, 2005, ("December Order), which rejected Plaintiff's

¹ Defendants have filed a Motion for Judgment on the Pleadings, to which Plaintiff has filed a Response in Opposition. Dkt. Nos. 25 & 33. That Motion will be addressed by separate order. Pending determination of the Motion, Plaintiff's deposition has been stayed. Dkt. No. 28.

filing due to the fact that what appeared to be an omnibus motion submitted by him was not in proper form for filing with the Court. Dkt. No. 27. In his “omnibus motion”, Plaintiff sought leave to file an amended complaint, the appointment of counsel, and a temporary restraining order. Dkt. No. 27. Defendants oppose Plaintiff’s Motion for Reconsideration. Dkt. No. 31.

A court may justifiably reconsider its previous ruling if (1) there is an intervening change in the controlling law; (2) new evidence not previously available comes to light; or (3) it becomes necessary to remedy a clear error of law or to prevent manifest injustice. *Delaney v. Selsky*, 899 F. Supp. 923, 925 (N.D.N.Y. 1995) (citing *Doe v. New York City Dep’t of Soc. Servs.*, 709 F.2d 782, 789 (2d Cir. 1983)).

Upon review of the file, including Plaintiff’s Motion for Reconsideration, the Court finds that Plaintiff’s submissions were properly determined to be unacceptable for filing, and that Plaintiff has not established that reconsideration of that Order is warranted. The omnibus motion was not supported by a proposed amended complaint and therefore was not a proper motion to amend. Moreover, insofar as the motion sought injunctive relief, Plaintiff had failed to provide a memorandum of law and supporting affidavit as required by Rule 7.1 of the Local Rules of Practice of the Northern District. The Court further notes that, although Plaintiff was clearly advised of the steps necessary to correct the deficiencies, he has not resubmitted any of these motions.

WHEREFORE, based upon the foregoing, it is hereby

ORDERED, that Plaintiff’s Motion for Reconsideration (Dkt. No. 29) is **denied**; and it is further

ORDERED, that the Clerk serve a copy of this Order on the parties.

IT IS SO ORDERED.

Date: May 15, 2006
Albany, New York



RANDOLPH F. TREECE
United States Magistrate Judge